

beyond the means for compressing the valve sleeve. This extension permits a medical device such as a catheter to be positioned with its distal end within the extension to block the flow of bodily fluids such as blood when the valve itself is split apart.

Heck does not describe or suggest the inclusion of a compressible valve sleeve in her hemostasis valve. The Examiner has repeatedly pointed to element 300 (described by the reference as a dilator, catheter or other medical device) as anticipating the claimed compressible valve sleeve. However, element 300 is not part of the hemostasis valve described by Heck, and any suggestion to the contrary is nothing more than reconstructive hindsight, which is improper.

So long ref.  
describes structure  
as claimed  
by applicant

The Examiner has suggested that this phantom valve sleeve "inherently" includes a free end that extends past the means for compressing the valve sleeve. This is an improper use of the concept of inherency. If Applicants were claiming a chemical composition or compound, along with some property of the composition or compound, the Examiner could properly reject the claim over a reference that appears to describe the same composition or compound, saying that the claimed property was inherent in the composition or compound. However, the concept of inherency cannot be used to manufacture structure that simply is not present in the cited reference. For this reason alone the rejection is improper and should be withdrawn.

Moreover, as noted above, the proximal end of the compressible valve sleeve extends as claimed specifically so that it is adapted to receive the distal end of the medical device. If the Examiner asserts that element 300 is indeed the valve sleeve, then apparently the Examiner contends that the proximal end of the element 300 must be adapted to receive the distal end of the element 300. This is not correct, meaning that Heck's element 300 cannot be considered as equivalent to the claimed valve sleeve, and thus the rejection of claim 1 is improper and must be withdrawn.

Ref. does not have a lumen,  
and is not a valve sleeve  
as claimed

Similarly, claims 3, 12, and 15 were previously amended to require that the proximal end of the compressible valve sleeve extend past whatever means or structure existed to compress the compressible valve screen. Therefore, claims 3, 12 and 15 likewise are patentable over the cited reference.

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims, namely claims 1-9, 11-15 and 21, are in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

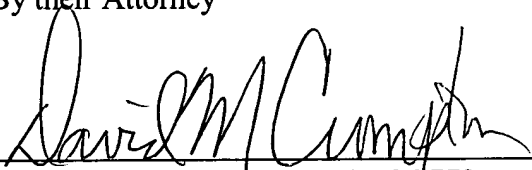
Respectfully submitted,

Michael S.H. Chu et al.

By their Attorney

Date: \_\_\_\_\_

11/14/02

  
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